

AMENDED IN ASSEMBLY JULY 1, 2014
AMENDED IN ASSEMBLY JUNE 17, 2014
AMENDED IN SENATE MAY 27, 2014
AMENDED IN SENATE MAY 6, 2014
AMENDED IN SENATE APRIL 21, 2014
AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1266

**Introduced by Senator Huff
(Coauthor: Senator Hill)**

February 21, 2014

An act to amend Section 4119.2 of the Business and Professions Code, and to amend Section 49414 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, as amended, Huff. Pupil health: epinephrine auto-injectors.

(1) Existing law authorizes a school district or county office of education to provide emergency epinephrine auto-injectors to trained personnel, and authorizes trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction. Existing law authorizes each public and private elementary and secondary school in the state to designate one or more school personnel on a voluntary basis to receive initial and annual refresher training regarding the storage and emergency use of an epinephrine auto-injector, as specified. Existing law authorizes a school nurse, or a person who has received the training described above

if the school does not have a school nurse, to, among other things, obtain a prescription for epinephrine auto-injectors.

This bill would instead require school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses and trained personnel who have volunteered, as specified, and would authorize ~~student school~~ nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction. The bill would require school districts, county offices of education, and charter schools to distribute a notice requesting volunteers at least once a year. The bill would require ~~a school nurse or, if the school has a volunteer, a school administrator~~ *qualified supervisor of health, as specified*, to obtain the prescription for epinephrine ~~auto-injectors; auto-injectors from an authorizing physician and surgeon, as defined~~, and would authorize the prescription to be filled by local or mail order pharmacies or epinephrine auto-injector manufacturers. The bill would require epinephrine auto-injectors to be *stocked and restocked* by ~~the school nurse or school administrator, or the school district or county office of education on behalf of a school nurse or school administrator of any school in the school district or county, or by a charter operator on behalf of charter schools~~ *a qualified supervisor of health, or a schoolsite employee, if there is no qualified supervisor of health*, in accordance with specified provisions. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

(2) Existing law requires the Superintendent of Public Instruction to establish minimum standards of training for the administration of epinephrine auto-injectors, as specified, and requires a school district or county of office of education to create a plan relating to their use.

This bill would revise the training requirements, and would require the Superintendent to review the minimum standards of training at least every 5 years. The bill would delete the requirement for creating a plan, and would impose specified reporting requirements relating to the use of epinephrine auto-injectors on specified school employees, local educational agencies, and the State Department of Education. The bill would require a school district, county office of education, or charter school to ensure that each employee who volunteers is provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, as specified. The bill

would authorize a state agency, the State Department of Education, or a public school to accept gifts, grants, and donations from any source for the support of the public school carrying out ~~these provisions~~. *these provisions*. By requiring local educational agencies to perform additional duties related to epinephrine auto-injectors, the bill would impose a state-mandated local program.

(3) Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district or county office of education if certain requirements are met.

This bill would also authorize a pharmacy to furnish epinephrine auto-injectors to charter schools pursuant to those provisions.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4119.2 of the Business and Professions
2 Code is amended to read:
3 4119.2. (a) Notwithstanding any other law, a pharmacy may
4 furnish epinephrine auto-injectors to a school district, county office
5 of education, or charter school pursuant to Section 49414 of the
6 Education Code if all of the following are met:
7 (1) The epinephrine auto-injectors are furnished exclusively for
8 use at a school district site, county office of education, or charter
9 school.
10 (2) A physician and surgeon provides a written order that
11 specifies the quantity of epinephrine auto-injectors to be furnished.
12 (b) Records regarding the acquisition and disposition of
13 epinephrine auto-injectors furnished pursuant to subdivision (a)
14 shall be maintained by the school district, county office of
15 education, or charter school for a period of three years from the
16 date the records were created. The school district, county office
17 of education, or charter school shall be responsible for monitoring

1 the supply of epinephrine auto-injectors and ensuring the
2 destruction of expired epinephrine auto-injectors.

3 SEC. 2. Section 49414 of the Education Code is amended to
4 read:

5 49414. (a) School districts, county offices of education, and
6 charter schools shall provide emergency epinephrine auto-injectors
7 to school nurses or trained personnel who have volunteered
8 pursuant to subdivision (d), and school nurses or trained personnel
9 may use epinephrine auto-injectors to provide emergency medical
10 aid to persons suffering, or reasonably believed to be suffering,
11 from an anaphylactic reaction.

12 (b) For purposes of this section, the following terms have the
13 following meanings:

14 (1) “Anaphylaxis” means a potentially life-threatening
15 hypersensitivity to a substance.

16 (A) Symptoms of anaphylaxis may include shortness of breath,
17 wheezing, difficulty breathing, difficulty talking or swallowing,
18 hives, itching, swelling, shock, or asthma.

19 (B) Causes of anaphylaxis may include, but are not limited to,
20 an insect sting, food allergy, drug reaction, and exercise.

21 (2) “*Authorizing physician and surgeon*” may include, but is
22 not limited to, a physician and surgeon employed by, or contracting
23 with, a local educational agency, a medical director of the local
24 health department, or a local emergency medical services director.

25 ~~(2)~~

26 (3) “Epinephrine auto-injector” means a disposable drug delivery
27 system with a spring-activated needle that is designed for
28 emergency administration of epinephrine to provide rapid,
29 convenient first aid for persons suffering a potentially fatal reaction
30 to anaphylaxis.

31 (4) “*Qualified supervisor of health*” may include, but is not
32 limited to, a school nurse.

33 ~~(3)~~

34 (5) “Volunteer” or “trained personnel” means an employee who
35 has volunteered to administer epinephrine auto-injectors to a person
36 if the person is suffering, or reasonably believed to be suffering,
37 from anaphylaxis, and has been designated by a school and has
38 received training pursuant to subdivision (d).

39 (c) Each private elementary and secondary school in the state
40 may voluntarily determine whether or not to make emergency

epinephrine auto-injectors and trained personnel available at its school. In making this determination, a school shall evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable alternative to epinephrine auto-injectors and trained personnel. A private elementary or secondary school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for purposes of this subdivision.

(d) Each public and private elementary and secondary school in the state may designate one or more volunteers to receive initial and annual refresher training, based on the standards developed pursuant to subdivision (e), regarding the storage and emergency use of an epinephrine auto-injector from the school nurse or other qualified person designated by ~~the~~ *an authorizing* physician and ~~surgeon employed by or contracting with the local educational agency, the medical director of the local health department, or the local emergency medical services director.~~ *surgeon.*

(e) (1) Every five years, or sooner as deemed necessary by the Superintendent, the Superintendent shall review minimum standards of training for the administration of epinephrine auto-injectors that satisfy the requirements of paragraph (2). For purposes of this subdivision, the Superintendent shall consult with organizations and providers with expertise in administering epinephrine auto-injectors and administering medication in a school environment, including, but not limited to, the State Department of Public Health, the Emergency Medical Services Authority, the American Academy of Allergy, Asthma and Immunology, the California School Nurses Organization, the California Medical Association, the American Academy of Pediatrics, Food Allergy Research and Education, the California Society of Allergy, Asthma and Immunology, the American College of Allergy, Asthma and Immunology, and others.

(2) Training established pursuant to this subdivision shall include all of the following:

- (A) Techniques for recognizing symptoms of anaphylaxis.
- (B) Standards and procedures for the storage, restocking, and emergency use of epinephrine auto-injectors.
- (C) Emergency followup procedures, including calling the emergency 911 telephone number and contacting, if possible, the pupil's parent and physician.

1 (D) Recommendation on the necessity of instruction and
2 certification in cardiopulmonary resuscitation.

3 (E) Instruction on how to determine whether to use an adult
4 epinephrine auto-injector or a junior epinephrine auto-injector,
5 which shall include consideration of a pupil's grade level or age
6 as a guideline of equivalency for the appropriate pupil weight
7 determination.

8 (F) Written materials covering the information required under
9 this subdivision.

10 (3) Training established pursuant to this subdivision shall be
11 consistent with the most recent Voluntary Guidelines for Managing
12 Food Allergies In Schools and Early Care and Education Programs
13 published by the federal Centers for Disease Control and
14 Prevention and the most recent guidelines for medication
15 administration issued by the department.

16 (4) A school shall retain for reference the written materials
17 prepared under subparagraph (F) of paragraph (2).

18 (f) A school district, county office of education, or charter school
19 shall distribute a notice at least once per school year to all staff
20 that contains the following information:

21 (1) A description of the volunteer request stating that the request
22 is for volunteers to be trained to administer an epinephrine
23 auto-injector to a person if the person is suffering, or reasonably
24 believed to be suffering, from anaphylaxis, as specified in
25 subdivision (b).

26 (2) A description of the training that the volunteer will receive
27 pursuant to subdivision (d).

28 ~~(g) (1) A school nurse, if the school nurse is onsite or available,~~
29 ~~shall obtain from a physician and surgeon employed by or~~
30 ~~contracting with the local educational agency, the medical director~~
31 ~~of the local health department, or the local emergency medical~~
32 ~~services director a prescription for epinephrine auto-injectors that,~~
33 ~~at a minimum, includes, for elementary schools, one regular~~
34 ~~epinephrine auto-injector and one junior epinephrine auto-injector,~~
35 ~~and for junior high or middle schools and high schools, if there~~
36 ~~are no pupils who require a junior epinephrine auto-injector, one~~
37 ~~regular epinephrine auto-injector. The school nurse shall be~~
38 ~~responsible for stocking and restocking epinephrine auto-injectors~~
39 ~~in accordance with this section.~~

~~(2) If a school nurse is not onsite or available and the school has a volunteer, the school administrator shall obtain from a physician and surgeon employed by or contracting with the local educational agency, the medical director of the local health department, or the local emergency medical services director a prescription for epinephrine auto-injectors that, at a minimum, includes, for elementary schools, one regular epinephrine auto-injector and one junior epinephrine auto-injector, and for junior high or middle schools and high schools, if there are no pupils who require a junior epinephrine auto-injector, one regular epinephrine auto-injector. The school administrator shall be responsible for stocking and restocking the epinephrine auto-injectors in accordance with this section.~~

~~(3) Notwithstanding paragraphs (1) and (2), a school district or county office of education, on behalf of the school nurse or school administrator of any school, in that school district or county, may obtain the prescriptions for epinephrine auto-injectors required in paragraphs (1) and (2), and a charter operator, on behalf of the school nurse or school administrator of any charter school in the school district or county, may obtain the prescriptions for epinephrine auto-injectors required in paragraphs (1) and (2). The school district or county office of education, or, for a charter school, the charter operator, may stock and restock the epinephrine auto-injectors in accordance with the requirements specified in paragraphs (1) and (2).~~

(g) (1) A qualified supervisor of health at a school district, a county office of education, or a charter operator shall obtain from an authorizing physician and surgeon a prescription for each school for epinephrine auto-injectors that, at a minimum, includes, for elementary schools, one regular epinephrine auto-injector and one junior epinephrine auto-injector, and for junior high schools, middle schools, and high schools, if there are no pupils who require a junior epinephrine auto-injector, one regular epinephrine auto-injector. A qualified supervisor of health shall be responsible for stocking the epinephrine auto-injector and restocking it if it is used.

(2) If a school district, county office of education, or charter operator does not have a qualified supervisor of health, the school district, county office of education, or charter operator shall

1 *designate a schoolsite-level employee to carry out the duties*
2 *specified in paragraph (1).*

3 ~~(4)~~

4 (3) A prescription pursuant to this subdivision may be filled by
5 local or mail order pharmacies or epinephrine auto-injector
6 manufacturers.

7 (h) A school nurse, or if the school does not have a school nurse
8 or the school nurse is not onsite or available, a volunteer, may
9 administer an epinephrine auto-injector to a person exhibiting
10 potentially life-threatening symptoms of anaphylaxis at school or
11 a school activity when a physician is not immediately available.
12 If the epinephrine auto-injector is used it shall be restocked as soon
13 as reasonably possible, but no later than two weeks after it is used.
14 Epinephrine auto-injectors shall be restocked before their expiration
15 date.

16 (i) A volunteer shall initiate emergency medical services or
17 other appropriate medical followup in accordance with the training
18 materials retained pursuant to paragraph (4) of subdivision (e).

19 (j) No later than 72 hours after an incident of epinephrine
20 auto-injector use, the school nurse or the volunteer, in conjunction
21 with the school administrator, shall report the incident to the school
22 district, county office of education, or ~~chartering authority~~ *charter*
23 *school* on a form developed by the department in conjunction with
24 the California School Nurses Organization, the California
25 Emergency Medical Services Authority, and the American
26 Academy of Pediatrics. The school district, county office of
27 education, or ~~chartering authority~~ *charter school* shall *annually*
28 report the data using the California Longitudinal Pupil
29 Achievement Data System. The department shall annually publish
30 a summary of the data on its Internet Web site.

31 (k) A school district, county office of education, or charter
32 school shall ensure that each employee who volunteers under this
33 section will be provided defense and indemnification by the school
34 district, county office of education, or charter school for any and
35 all civil liability, in accordance with, but not limited to, that
36 provided in Division 3.6 (commencing with Section 810) of Title
37 1 of the Government Code. This information shall be reduced to
38 writing, provided to the volunteer, and retained in the volunteer's
39 personnel file.

1 *(l)* A state agency, the department, or a public school may accept
2 gifts, grants, and donations from any source for the support of the
3 public school carrying out the provisions of this section, including,
4 but not limited to, the acceptance of epinephrine auto-injectors
5 from a manufacturer or wholesaler.

6 SEC. 3. If the Commission on State Mandates determines that
7 this act contains costs mandated by the state, reimbursement to
8 local agencies and school districts for those costs shall be made
9 pursuant to Part 7 (commencing with Section 17500) of Division
10 4 of Title 2 of the Government Code.